THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 27267 OF 2006

Between :

A.Lokender Reddy,
Hyderabad

… Petitioner

And :

The Commissioner,
Municipal Corporation of Hyderabad,
Hyderabad and others

… Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 27267 OF 2006

ORAL ORDER :

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

Notice u/Sec. 452 of the Hyderabad Municipal Corporation Act, 1955 ('the Act') was issued to the petitioner on 4.12.2006 calling upon the petitioner (owner) to remove the deviant constructions in the premises bearing No.3-5-907/3 to 9, Himayatnagar, Hyderabad. In response thereto, the petitioner addressed a letter dated 15.12.2006 to the 1st respondent, *inter alia* stating that he had entered into a registered development agreement dated 16.3.1997 with M/s Mahavir Associates represented by the 4th respondent, whereunder the 4th respondent agreed to construct the building in accordance with the sanctioned plan; that in terms of the development agreement

the 4th respondent had obtained sanctioned plan from the Municipal authorities and completed the construction; that the 4th respondent had retained the original sanctioned plan in his custody without handing it over to the petitioner or to the association of the residents and that the respondent-Corporation afford a month's time to enable the petitioner to verify the sanctioned plan from the 1st respondent's office and furnish a reply to the notice dated 4.12.2006.

A month and more has passed by since the filing of the writ petition and when the writ petition is taken up today the stalemate continues. As there are alleged aunauthorised constructions in the premises in question, the 1st respondent, as the regulator of the provisions of the Act, is bound to act expeditiously against the deviant constructions. As a consequence of the petitioner's representation and the 1st respondent's silence in response thereto, if there be unauthorized constructions, these are likely to continue interminably posing a threat to public interest and orderly governance.

In the circumstances, since the substantive grievance in the writ petition is that the 1st respondent had issued the notice dated 16.12.2006 u/Sec. 636 of the Act directing the petitioner to remove the deviant constructions within 24 hours, despite the petitioner's representation dated 15.12.2006, the writ petition is disposed of directing the 1st respondent to furnish (to the petitioner), a certified copy of the sanctioned building plan relating to premises No. 3-5-907/3 to 9, Himayatnagar, Hyderabad, within 24 hours from the date of receipt of a copy of this order.

Within three (3) days (from the date of receipt of a copy of

the sanctioned plan from the 1st respondent, as afore directed), the petitioner may, if he is so desires, submit his objections to the notice u/Sec. 452 dated 4.12.2006, setting out whatever objections/explanations that the petitioner seeks to lodge before the 1st respondent. Within seven (7) days from the date of receipt of the objections/explanation from the petitioner (or the date of expiry of the period within which the petitioner may lodge his objections as above, whichever period is later), the 1st respondent shall pass an appropriate order u/Sec.636 of the Act and communicate the same to the petitioner by a verifiable mode of communication.

Pending a decision by the 1st respondent as directed above, no action under Sec. 636 of the Act shall be taken.

No order as to costs.

Dated: 29.01.2007 ----------

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Pvsn Justice G.Raghuram